

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

| REQUEST FOR PATENT FEE REFUND | | | | | | | | | | | |
|--|-----------------------------------|--|-----------------------------|----------|---|---|----|---|---|---|---|
| 1 Date of Request: <u>3-29-05</u> | | 2 Serial/Patent # <u>10/092,411</u> | | | | | | | | | |
| 3 Please refund the following fee(s): | | 4 PAPER NUMBER | 5 DATE FILED | 6 AMOUNT | | | | | | | |
| | Filing | | | \$ | | | | | | | |
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| <input checked="" type="checkbox"/> | Petition | IFW | 12-14-04 | \$ 400 | | | | | | | |
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| <input checked="" type="checkbox"/> | No Fee Due (Explanation): | 9 <table border="1" style="display: inline-table; text-align: center; width: 150px;"> <tr> <td style="width: 20px;">0</td> <td style="width: 20px;">2</td> <td style="width: 20px;">--</td> <td style="width: 20px;">4</td> <td style="width: 20px;">8</td> <td style="width: 20px;">0</td> <td style="width: 20px;">0</td> </tr> </table> | | | 0 | 2 | -- | 4 | 8 | 0 | 0 |
| 0 | 2 | -- | 4 | 8 | 0 | 0 | | | | | |
| <u>Proves we incorrectly changed filing date</u> | | | | | | | | | | | |
| 11 REFUND REQUESTED BY: | | | | | | | | | | | |
| TYPED/PRINTED NAME: <u>Steven Brantley</u> | | TITLE: <u>Petitioners Atty</u> | | | | | | | | | |
| SIGNATURE: <u>[Signature]</u> | | PHONE: <u>571-272-3203</u> | | | | | | | | | |
| OFFICE: <u>Petitioners</u> | | | | | | | | | | | |
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| APPROVED: <u>[Signature]</u> | | DATE: <u>3/30/05</u> | | | | | | | | | |

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
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Patent
Attorney Docket No. 032796-101

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|----------------------------------|---|------------------------|
| In re Patent Application of |) | MAIL STOP PETITION |
| Lynn A. DOUCETTE-STAMM et al. |) | Group Art Unit: 1637 |
| Application No.: 10/092,411 |) | Examiner: Young J. Kim |
| Filed: August 22, 2002 |) | Confirmation No.: 9046 |
| For: NUCLEIC ACID AND AMINO ACID |) | |
| SEQUENCES RELATING TO |) | |
| STAPHYLOCOCCUS EPIDERMIDIS |) | |
| FOR DIAGNOSTICS AND |) | |
| THERAPEUTICS |) | |

PETITION FOR CORRECTION OF FILING DATE PURSUANT TO 37 C.F.R. § 1.182

ATTN: Office of Patent Legal Administration
Office of the Deputy Commissioner for Patent Examination Policy
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Petition requests correction of the filing date of the above-referenced application to March 7, 2002 from August 22, 2002. With this Petition is filed herewith the requisite fee of \$400.00 under 37 C.F.R. § 1.17(f).

The August 22, 2002 filing date was assigned to the above-referenced application (now abandoned), because the application as-filed had pages missing. The Patent Office issued a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures on April 22, 2002 indicating that pages 21 and 79-318 were missing. The missing pages were supplied in a complete substitute specification submitted on August 22, 2002. Based on this submission, the Patent Office awarded the above-referenced application the filing date of August 22, 2002.

Applicants state that the instant application is a divisional application of U.S.S.N. 09/134,001 filed August 13, 1998, now U.S. Patent No. 6,380,370, and which claims priority of U.S. Provisional Application No. 60/055,779, filed August 14, 1997 and U.S. Provisional Application No. 60/064,964, filed on November 8, 1997.

Upon filing the subject application, Applicants amended the first page of the subject application to read:

Adjustment dates 03/30/2005 AXELLEY
12/15/2004 CNGUYEN 0000063 10092411
01 FC:1462 -400.00 CR

12/15/2004 CNGUYEN 0000063 10092411 400.00 CR
01 FC:1462
Repln. Ref: 03/30/2005 AXELLEY 0003301500
DOB: 024800 Name/Number: 10092411
FC: 9204 \$400.00 CR

This application is a divisional of Application No. 09/134,001, filed on August 13, 1998, which claims priority of U.S. Provisional Application No. 60/055,779 filed on August 14, 1998, and U.S. Provisional Application No. 60/064,964 filed on November 8, 1997, all of which are hereby incorporated herein by reference in their entirety.

See page 3, Item 11 of attached Request for Filing Continuation/Divisional Application Under 37 C.F.R. § 1.53(b) dated March 7, 2002. The Applicants also indicated on page one of the Request for Filing Continuation/Divisional Application Under 37 C.F.R. § 1.53(b) that "[t]he entire disclosure of the prior application from which a copy of the oath or declaration is supplied herewith is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein."

Accordingly, Applicants assert that as the Office had a copy of the complete parent application (now U.S. Patent 6,380,370) and as the specification of that application was incorporated by reference in its entirety, for at least those reasons, the filing date of the instant application should be March 7, 2004, because the missing matter is not believed to be necessary. See M.P.E.P. § 506.02.

Therefore, Applicants respectfully request by this Petition that the Patent Office change the filing date of the subject application from August 22, 2002 to March 7, 2002.

If the Office has any questions which would further expedite this matter, the Office is invited to contact the undersigned attorney to discuss any remaining issues.

In the event any further fees are due to maintain pendency of this application, the Examiner is authorized to charge such fees to Deposit Account No. 02-4800 or to credit said account for any overpayment.

Respectfully submitted,
BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: December 14, 2004

By: 
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